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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/152,992	09/14/1998	RANDI LYNN SCHINDLER	05-10022	4868

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VALENCIA, CA 91355

EXAMINER

BROWN, MICHAEL A

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 04/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/152,992

Applicant(s)

SCHINDLER, RANDI LYNN

Examiner

Michael Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-22 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11, 13, 15, 21 and 22 is/are allowed.
- 6) ☒ Claim(s) 1-8, 12, 14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3-8-05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-8 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodley in view of Morrissey '889.

Woodley discloses in figures 1-4 a nipple cover comprising a flexible material (latex), being in the shape of a hollow curve (the curved portion of 20 that the nipple fits into), having an inner surface (fig. 3), an outer surface (fig. 2), an adhesive 26, on the inner surface, the cover has a first thickness proximate the center that is greater than a second thickness around the periphery, providing a gradually tapering cover, the curvature of the outer surface is smooth, the cover is manufactured of a flexible plastic (latex), the nipple cover has a hollow hemisphere shape (fig. 2), the nipple cover covers the breast, , an absorbent pad 24, disposed on the inner surface, a plurality of holes 40 and the adhesive is reusable. However, it could be argued that Woodley doesn't disclose a hollow hemisphere shape nipple cover. Morrissey teaches in figures 1-5 a nipple cover 2, manufactured from a flexible material (plastic, col. 2, lines 57-60), being formed substantially in the shape of a hollow curved surface (convex surface), having an inner surface 3, an outer surface 5, substantially smooth (fig. 6), the cover has the shape of a hollow hemisphere (fig. 1), the cover is substantially thin (fig. 5), an

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absorbent pad 9, disposed on the inner surface (fig. 7) and a plurality of holes 4, disposed in the cover. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the nipple cover disclosed by Woodley could be fabricated as a hollow hemisphere shape as taught by Morrissey in order to allow the hemisphere shape to conform to the shape of the patient's breast. In figure 5, of Woodley the second thickness appears to be substantially less than one half of the first thickness proximate the center. The device is unitary formed between the inner and outer surface (fig. 1).

Claims 14 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Woodley in view of Morrissey, along with Lee.

Woodley discloses in figures 1-4 a nipple cover, as set forth above. Morrissey teaches in figures 1-5 a nipple cover as set forth above. However, neither reference teaches a set of nipple covers or the cover being different in shape or color. Lee teaches in figures 1-11 a breast prosthesis comprising a nipple cover 10 that can be tinted to match a patient skin color. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the nipple cover disclosed by Woodley and taught Morrissey could be fabricated of a skin color as taught by Lee in order to allow the cover to blend in with the patient's skin color. It is simply a matter of duplication to make different sets of the nipple covers.

Allowable Subject Matter

Claims 11, 13, 15 and 21-22 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hattori discloses a nipple cover.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gergory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown
April 10, 2006



MICHAEL A. BROWN
PRIMARY EXAMINER